

ORDINANCE NO. 2011-30

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF NEWPORT BEACH
AMENDING SECTIONS 14.12.010, 14.12.090,
14.12.125, 14.20.010, 14.20.020, 14.20.050,
14.20.060, 14.20.070 AND DELETING
SECTION 14.20.030**

WHEREAS, water service installation fees for the installation of a new meter or a change in meter size to an existing water service, delinquent water service discontinuance fees and delinquent water service restoration fees are cost-of-services fees identified in the Master Fee Schedule, which updates are approved by the City Council; and

WHEREAS, Sections 14.12.010, 14.12.090, 14.12.125 did not previously specifically reference the Master Fee Schedule for fees; and

WHEREAS, City Council now desire to revise Sections 14.12.010, 14.12.090 and 14.12.125 to reflect the cost of those services, as updated by the Master Fee Schedule; and

WHEREAS, the 2011 MGT of America, Inc. ("MGT") cost-of-services study separated the charges for water service discontinuance and restoring water service, and for purposes of restoring water service, identified two separate charges for regular and non-regular work hours; and

WHEREAS, the City Council desires to revise Sections 14.12.090 and 14.12.125 to separate the charges for water service discontinuance and water service restoration, and revise Section 14.12.125 to reflect two separate fees for regular and non-regular work hours for water service restoration; and

WHEREAS, City Council desires to change all references from Public Works to Municipal Operations Department in Section 14; and

WHEREAS, a consumer's presence is no longer required for meter testing, meter testing shall be conducted by a contractor selected by the City, and a meter test deposit is no longer required, Council desires to revise Section 14.20.020 to reflect these items; and

WHEREAS, a meter deposit is no longer required, therefore Council desires to delete Section 14.20.030; and

WHEREAS, MGT identified a new fee for the Construction Water Meter, and City Council desires to add Section 14.20.070 to NBMC.

NOW THEREFORE, the City Council of the City of Newport Beach ordains as follows:

SECTION 1: Section 14.12.010, Service Fees, is hereby amended to read as follows:

A. The fees for the installation of water services, water meters or water services including meters, or changing the size of those services already in place, shall be paid in advance.

B. The installation fee for a water service shall be the city's costs including all labor and materials, plus twenty-five (25) percent of such cost for overhead. The installation fee shall be as established by the Municipal Operations Department, and the cost shall be paid to the Finance Department by the person applying for such installation before the work of connecting the main with the property is begun.

C. The installation fee for a new meter or change in meter size to an existing water service is identified by City Council resolution.

(Ord. 96-22 § 1 (part), 1996; Ord. 92-56 § 1 (part), 1993)

SECTION 2: Section 14.12.090, Delinquent Water Service Discontinuance and Fees, is hereby amended to read as follows:

14.12.090 Delinquent Water Service Discontinuance and Fees.

A. Water service to any premises may be discontinued because of nonpayment of a bill or violation of any of the provisions of this chapter, or ordered turned off by the owner or tenant, or for failure to establish a water service agreement with the City.

B. The City is not responsible or liable for damage done to the customer's premises that may result from the discontinuance or restoration of water service pursuant to this chapter.

C. Service may not be discontinued for nonpayment on any Saturday, Sunday, legal holiday or at any time during which the business offices of the City are not open to the public or in any of the following situations:

1. During the pendency of an investigation by the City of a customer dispute or complaint.

2. When a customer has been granted an extension of the period for payment of a bill.

3. When such discontinuance would be especially dangerous to the health of the customer or a full-time resident of the customer's household. Certification from a licensed physician, public health nurse or social worker may be required by the City.

4. When the customer or full-time resident of the customer's household is temporarily unable to pay for such service and is willing to arrange installment payments satisfactory to the City, including arrangements for prompt payment of subsequent bills.

D. The fee for discontinuance shall be the city's costs including all labor and materials and is identified by Council resolution.

(Ord. 96-22 § 1 (part), 1996: Ord. 92-56 § 1 (part), 1993)

SECTION 3: Section 14.12.125, Delinquent Water Service Restoration (Delinquent Account Water Turn-On Charge) is hereby amended to read as follows:

A. Service that has been discontinued may not be restored until payment of all delinquent water service charges, including the restoration charge and \$100.00 fine has been received by the Finance Department.

1. Upon payment, service shall be restored during regular or non-regular working hours.

2. The restoration charge for meter turn on during regular and non-regular work hours is identified by Council resolution.

3. Regular work hours are Monday through Thursday 7:00 a.m. to 4:30 p.m. and Friday 7:00 a.m. to 3:30 p.m.

B. Any service wrongfully discontinued shall be restored without charge for the restoration of service, and a notation thereof shall be mailed to the customer at the customer's billing address. A credit shall be applied to the customer's next municipal services bill. The credit shall be set by Council ordinance.

(Ord. 2011-11 § 2, 2011; Ord. 96-22 § 1 (part), 1996: Ord. 92-56 § 1 (part), 1993)

SECTION 4: Section 14.20.010, Property of City – Damaged or Lost Meters is hereby amended to read as follows:

A. All meters, unless otherwise authorized by the Utilities Manager, shall be and remain the property of the City and will not be removed unless the use of water on the premises is to be entirely stopped, or the service connection discontinued or abandoned.

B. In all cases where meters or meter boxes are lost, injured or broken by carelessness, or by the negligence of the owners or occupants of premises, they shall be replaced or repaired by the Utilities Division and the cost charged against the owner or occupant; and in the case of nonpayment, the water shall be shut off as provided in Section 14.12.090.

C. In the event the meter is out of order, or fails to register properly, the consumer shall be charged on an estimate made by the city on the average monthly consumption during the last three months that the meter was in good order, or from what he may consider to be the most reliable data at his command.

(Ord. 96-22 § 1 (part), 1996: Ord. 92-56 § 2, 1993: Ord. 92-31 § 15 (part), 1992)

SECTION 5: Section 14.20.020, Meter Tests, is hereby amended to read as follows:

Where the accuracy of record of a water meter is questioned, it shall be removed at the consumer's request and shall be tested by a contractor selected by the city. A report will be provided to the customer. Both parties to the test must accept the findings so made. If the test discloses an error against the consumer of more than three percent of the meter's registry, the excess of the consumption on the three previous readings shall be credited to the consumer's meter account and the city will bear the entire expense of the test. On the other hand, where no such error is found, the person who has requested the test can be charged the full fixed costs of the test.

(Ord. 96-22 § 1 (part), 1996: Ord. 92-31 § 5 (part), 1992)

SECTION 6: Section 14.20.030, Meter Test Deposit, is hereby deleted in its entirety.

SECTION 7: Section 14.20.050, Meter Placement, is hereby amended to read as follows:

All meters of the City shall be placed at the curblane of the street or near the property line in alleys, whenever and wherever practicable, and be protected and maintained as a part of the operation of the City.

SECTION 8: Section 14.20.060, Meters Inside Premises, is hereby amended to read as follows:

When a water meter is placed inside the premises of a consumer, for the convenience of the consumer, provisions shall be made for a convenient meter reading and repairing by representatives of the city. Failure to make such provisions by the consumer shall be sufficient cause for removal of such meter at the option of the Utilities Manager and the withholding of service until connection is made at the curblane as herein provided.

(Ord. 96-22 § 1 (part), 1996: Ord. 92-31 § 5 (part), 1992)

SECTION 9: Section 14.20.070, Construction Water Meter, is hereby added to the Code:

All persons requesting water from a city owned fire hydrant for the purposes of construction or other uses shall obtain a construction meter. Individuals who request a construction meter shall complete an application and pay the appropriate related fees identified by Council resolution. Applications are available at the Revenue Division located at City Hall. Once the application and fees have been accepted, a hydrant meter will be delivered and installed at the site.

SECTION 10: If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

SECTION 11: The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 12: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause the same to be published once in the official newspaper of the City, and it shall be effective thirty (30) days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach, held on the 22nd day of November, 2011, and adopted on the 13th day of December 2011, by the following vote, to wit:

AYES, COUNCILMEMBERS _____

NOES, COUNCILMEMBERS _____

ABSENT, COUNCILMEMBERS _____

MICHAEL F. HENN, MAYOR

ATTEST:

LEILANI BROWN, CITY CLERK

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY

AARON HARP, CITY ATTORNEY